

National Association of SARA Title III Program Officials

WHITE PAPER

“The Practical Evaluation of Local Emergency Planning and Preparedness”

The objective of this paper is not to simply restate the requirements of the Emergency Planning and Community Right-to-Know Act (EPCRA). Rather it is intended to make observations on the practical aspects of local emergency planning and preparedness. It is assumed that the reader has some background in the provisions of EPCRA and those will not be restated here.

Local emergency planning committees (LEPCs) are the backbone of EPCRA. They are typically a collection of volunteers made up of local government employees, first response agencies, facility representatives and members of the public. While EPCRA does contain a list of desired membership background and representation, most LEPCs do not have members in all those categories. Rarely will an LEPC have a staff and even less often will that staff be either paid or applied to LEPC functions on a full-time basis.

The typical LEPC functions without a budget or with only a small amount of money frequently in the form of grants from the State Emergency Planning Commission (SERC). The chair and LEPC members often provide support from their own pockets or with discretionary funds from their employer's budgets.

LEPCs are frequently organized within the offices of a first response agency or local government office of emergency management. In such cases it can be difficult to identify where the parent agency's activities end and the LEPC's begin. The functions are obviously complementary and therefore that distinction is frequently misleading or of little importance in the day-to-day planning and preparedness of the community.

Planning

A limited reading of EPCRA gives the impression that the LEPCs are suppose to develop emergency response plans for hazardous substances. This can create a conflict if it is routine for such plans to already exist within first response agencies and local emergency management offices. An LEPC that is housed within one of these agencies will have typically been involved in its planning activities. More independent LEPCs will frequently be active in providing information and input to these agencies in order to help them improve the plans.

In some communities the LEPC has become a broader all-hazards emergency planning agency within the community. This happens when the cooperation and resources available within the LEPC make this the most efficient approach for that community. While not all SERCs have adopted policies on the coordination between LEPCs and other planning agencies, most encourage whatever arrangement is most productive for the community.

Most LEPCs consider and adopt projects based upon core missions they feel are important in the community. These may involve any variety of matters, but are generally focused on a desire to protect first responders and the public through better information and awareness of risks in the community. Consideration must be given to the resources available and the interests of the members. Most SERCs will support a vast range of LEPC activities as long as they have some relationship to the intent of EPCRA.

The greatest tool available to an LEPC is its very substantial information gathering power. However, most SERCs encourage LEPCs to do more than just collect boxes of paper. Many LEPCs focus their activities on information requests that bring facilities into closer cooperation with the first responder community. Examples are fire department approval of contingency plans, exercise organization and public awareness of expected behavior during an emergency.

LEPCs also perform a generalized role in community-wide efforts to improve public awareness of risks and preparedness for emergencies. They will encourage the very basic things such as 72-hour emergency kits, first aid training, and household safety. Often they will work on projects such as household hazardous waste collection, school lab chemical safety and the hazards of methamphetamine labs.

Most SERCs will encourage LEPCs to think expansively as there are a myriad of other activities that may be useful in a community. The late Jim Makris - widely called the “father” of EPCRA once said that its best to think of LEPCs as local “environmental” protection committees as he saw them working more broadly to improve conditions in their communities.

Organization & Membership

LEPC membership is approved by the SERCs. Once an LEPC is established, SERCs will have some procedure or policy by which the committees are responsible for advising the SERCs of their membership changes and seeking approval. Whether or not an LEPC has “officers” beyond a chair is a matter of state practice and policy. The chair typically functions as the point of contact for the SERC, the public and for regulated facilities.

Broad membership is encouraged. While there is a list of membership types in EPCRA, SERCs recognize that it is not realistic to find all of those types of people in every community. On the other hand, membership should not be limited. Anyone with an interest, a desire to assist with projects, and good manners should be encouraged to join and participate.

By-laws are not required in most states, but they are commonly used. The function of by-laws is primarily to provide some structure to membership decisions and the election of the chair. As a practical matter LEPCs tend to function in a consensus fashion rather than using a formal vote process. Exceptions would be the rare event when the LEPC intends to pursue legal enforcement of its information requests under EPCRA.

Dealing with Facilities

The power of LEPCs is to obtain information relevant to emergency planning. Both owners and operators of facilities are responsible for providing this information. While some reports, Tier II for example, are automatic under EPCRA and state laws, the real power in LEPC information requests is the ability to focus the request on the specific facility and community involved.

LEPCs should articulate why they are asking for information beyond the routine Tier II form. There are, of course, many potential reasons. The point is that when asking a facility for additional information it should be clear to that facility that the information is important to the community.

LEPCs will often look to provide facilities with the opportunity to demonstrate their good corporate citizenship. Many facilities try hard to reduce risks and support first responders. Through exercises, public meetings and other activities it is important for LEPCs to recognize and reward these activities.

Dealing with the Public

As a general rule, all EPCRA-related information in the possession of an LEPC is publically available. Requests for information, such as Tier II data and CAA Sec. 112r Risk Management Plans, can come to an LEPC. They should have procedures in place to notify the public that this information is available and instructions on how it can be obtained.

LEPCs should encourage the public to participate with the LEPC. If members of the public have questions about preparedness or facility safety, it is always appropriate to ask the public to attend a meeting to discuss their concerns. Often an LEPC will refer facility-specific inquiries directly to the facility. While this can be effective in improving facility/public relations in many cases, it is equally true that the involvement of the LEPC will be useful in creating some context for the discussion.

Accident prevention is primarily the responsibility of facilities. Nonetheless, LEPCs and first responder organizations are just as responsible to the public as the facility when it comes to community preparedness. Assurances of accident prevention programs only address part of the overarching community planning and preparedness equation. Effective preparedness involves the facility, the community and individuals merging answers to these three key questions:

- What are the accident risks of this facility and how are they being prevented? -
- What are the plans and capabilities of the community should an accident happen? -
- What do I do to protect myself and those I am responsible for during an emergency?

The Broader Mission

One of the most difficult tasks faced by an LEPC is creating a public awareness of risks and improving community preparedness. LEPCs should look for opportunities through the schools, civic groups, youth programs, churches and any other organization active in the community to accomplish this mission.

This means that LEPCs must embrace a broader sense of community responsibility for accident prevention and preparedness. It is not appropriate to be a passive collector of information. With this in mind the following “Golden Rules” are proposed for the broader community.

Preferably it is the LEPCs that should lead the process of addressing the goals stated in the Golden Rules, but that really is not the complete point. Whether or not an LEPC exists, leadership within a community needs to be focused on these issues. Leadership comes from various places depending upon the community, it may be elected leadership, first response agencies or community groups. Whether or not called an LEPC, the functions must exist or no community will be adequately involved in accident prevention or preparedness.

State and federal agencies along with facilities should have an expectation that communities will address these issues. They cannot be passive in this regard. The risk is shared and the responsibility is equally shared. Preparedness cannot be imposed on a community nor can it be provided from outside. All stakeholders have a responsibility to find and encourage appropriate leadership within the community.

The era of passivity in accident prevent and community preparedness is gone. Whether facility, government, first response agency or member of the public, we are all connected and we all have a role. The best examples of local emergency planning and preparedness focused on

trying to
follow the Golden Rules will have the following attributes:

- A close relationship between emergency planners and first response agencies.
- A close relationship between facilities and these agencies and the public.
- Information sharing on hazards, accident prevention efforts and emergency response.
- Public involvement in developing expectations for public behavior during an emergency.
- Repeated exercises of emergency response plans including public education.
- Generalized all-hazards preparedness efforts developed with public involvement.

We are mindful that in the past the regulatory environment has tended to create an adversary relationship between communities and facilities. From topics as diverse as land use planning and environmental permitting through emergency response, the relationship is often confrontational. LEPCs are not regulatory agencies. They have the capacity to break through this barrier for the greater good of their communities.

July 25, 2007 Page 4

Golden Rules For Communities

. • **While the primary responsibilities lie with the industry, there are important responsibilities for stakeholders at the local level.** An important aspect of making the facilities safer to the community in which they exist is the communities' involvement with prevention and preparedness objectives

. • **Be aware of the risks in your community and know what to do in the event of an accident.** Members of communities near hazardous installations, and others that might be affected in the event of an accident, should make sure that they understand the risks they face and what to do in the event of an accident to mitigate possible adverse effects on health, the environment and property (e.g., understand the warning signals, and what actions are appropriate). This involves reading and maintaining any information they receive, sharing this information with others, and seeking additional information as appropriate.

. • **Communicate and co-operate with other stakeholders on all aspects of accident prevention, preparedness, and response.** The community should not pressure the industry, but instead there should be an open policy between the community and the industry, and a shared objective of reducing the likelihood of accidents. The potentially affected public should receive information needed to support prevention and preparedness objectives, and should participate in decision making related to hazardous installations, as appropriate.

. • **Participate in decision-making relating to hazardous installations** The laws in many communities provide opportunities for members of the public to participate in decision-making related to hazardous installations, for example by commenting on proposed regulations or zoning decisions, or providing input for procedures concerning licensing or siting of specific installations. Members of the public should take advantage of these opportunities to present the perspective of the community. They should work towards ensuring that such opportunities exist whenever appropriate, and that the public has the information necessary for effective participation.

. • **Know the hazards and risks at installations in your community where there are hazardous substances.** The community should undertake, in co-operation with other stakeholders, the hazard identification and risk assessments needed for a complete understanding of the risks to the public, the

environment, and property in the event of an accident. Hazard identification and risk assessments should be undertaken from the earliest stages of design and construction, throughout operation and maintenance, and should address the possibilities of human or technological failures, as well as releases resulting from natural disasters or deliberate acts (such as terrorism, sabotage, vandalism, or theft). Such assessments should be repeated periodically and whenever there are significant modifications to the installation.

. **• Prepare for any accidents that occur.** It is important to recognize that it is not possible to totally eliminate the risk of an accident. Therefore, it is critical to have appropriate preparedness planning in order to minimize the likelihood and extent of any adverse effects on health, the environment or property. The community should conduct, in co-operation with other stakeholders, any off-site planning including provision of information to the potentially affected public.

. **• Co-operate with local authorities, and industry, in emergency planning and response.** Representatives of the community should take advantage of opportunities to provide input into the emergency planning process, both with respect to on-site and off-site plans. In addition, members of the public should co-operate with any tests or exercises of emergency plans, following directions and providing feedback, as appropriate.

. **• Assist other stakeholders to carry out their respective roles and responsibilities.** The community should co-operate with management and employee representatives and public authorities in order to promote communication and involvement from all stakeholders involved.